

October 5, 1998

Re: FOIA Appeal, your letter dated August 30, 1998

Dear :

On June 8, 1998, you filed a Freedom of Information Act (FOIA) request for personnel certificates constructed from NCUA announcement numbers NCUA 1-7-4001 and NCUA 1-7-4002. Dianne Salva, NCUA's FOIA Officer, responded to your request on July 18, 1998. Ms. Salva provided you with two Requests for Referral of Eligibles (one certificate for announcement NCUA 1-7-4001 and one for announcement 1-7-4002) and two NCUA Merit Promotion Certificates (again one for announcement 1-7-4001 and one for 1-7-4002). Information concerning individuals other than yourself was redacted from the certificates pursuant to exemption 6 of the FOIA, 5 U.S.C. 552(b)(6). You and Ms. Salva have exchanged several pieces of correspondence and e-mail concerning your request and the response thereto. Ms. Salva sent you a letter of clarification on August 24, 1998, with an enclosed March 30, 1998 letter from Mr. Witkop at OPM to Gloria Harris, then the Acting Director of OHR at NCUA. I sent you a copy of the March 30, 1998 enclosure on September 22, 1998. Your August 30 FOIA appeal was received on September 4.

You do not challenge the use of exemption 6 of the FOIA in your appeal. Rather, you believe that two Request for Referral of Eligibles Certificates exist for announcement NCUA 1-7-4001, rather than one. Your belief is a certificate exists for both the original and the reconstructed announcement. This is not the case. Enclosed is another copy of the Request for Referral of Eligibles Certificate for announcement no. NCUA 1-7-4001 (hereinafter ("Certificate")). Ms. Salva, in her August 24, 1998 letter, as well as Mr. Witkop, in his March 30, 1998 letter, explain why only one certificate exists. I will reiterate the explanation. Announcement 1-7-4001 closed on February 27, 1997. Because there was no referral list generated from that announcement, the same document was utilized for the regularized or reconstructed certificate. It was at that time that Mr. Witkop signed the Certificate and it was stamped by OPM (April 16, 1998). There was no certificate issued for the original announcement. The instruction to regularize is set forth in Mr. Witkop's letter, another copy of which is enclosed.

You state in your appeal that the Certificate we sent you could not be the reconstructed or regularized certificate because the Certificate we sent you had only your name listed. It is your belief that the reconstructed certificate contained applicants in addition to yourself. The Certificate did contain another applicant, however, that information was redacted pursuant to exemption 6 of the FOIA. I have indicated where the information was redacted on the copy of the Certificate now enclosed. Mr. Witkop's letter also indicates there is information on one other applicant. The applicant's name was redacted pursuant to exemption 6. Again, I have indicated where the redaction was made.

You appear to be questioning NCUA's search for the documents requested. Federal agencies are under a duty to conduct a reasonable search for records when a FOIA request is received. Patterson v. Internal Revenue Service, 56 F.3d 832, 841 (7<sup>th</sup> Cir. 1995). We have conducted a reasonable search. As explained above, all records responsive to your request have been provided. There is only one Certificate for NCUA announcement 1-7-4001.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit against NCUA. Such a suit may be filed in the United States District Court in the district where you reside, where your principal place of business is located or in the District of Columbia.

Sincerely,

James J. Engel

Deputy General Counsel

Enclosures

GC/HMU:bhs

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